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FRIDAY, APRIL 1, 1898.

THE SITUATION MORE CRITICAL.

On the face of the situation, so to speak, of the news respecting our complications with Spain, the outlook for peace was not last night as reassuring as it had been for twenty-four hours previously. Spain, it would appear, was proving less pliant under our pressure for a settlement upon our conditions than we had expected and had been given reason to believe she would be. According to advices from Madrid, it seems that she is manoeuvring for time by formulating counter propositions. Still, nothing really definite is known as to the actual situation, the advices from Washington being in the main as unsatisfactory as are those from Madrid, and if we continue to keep our heads and realize the momentous responsibility that is upon us, it may yet be a far cry to war.

This responsibility calls no less for doing our duty to Spain than for being true to ourselves. The one involves the other. It calls for a calm and dispassionate consideration of any counter proposals the Madrid Government may make, with a view of determining whether their acceptance would enable us to secure an adjustment of the Cuban question on a basis of peace, without loss of our dignity, honor, or prestige, or violation of our obligations to humanity. A failure to recognize these elements of responsibility in the premises might be to commit a more grievous wrong against the public conscience of this country and posterity than against Spain.

This government cannot, at this stage of the issue, afford to make any compromise with weakness as to the crucial issues. On the essential questions at stake it must remain firm. But none the less it cannot afford companionship with injustice, and bravado, and bullying, with their chances of bringing on war, for the sake of non-essentials. We cannot afford to pursue a policy of useless temporizing, but if we can put an end to the terrible struggle in Cuba, ensure the reconcentration of the island, and guarantee to the harried island the blessings of good government, without humiliating Spain, and without cost of blood to ourselves, blot upon our honor, and the piling up of a heavy burden of taxation upon the masses, if it is our duty, in the sight of God and of man, to do so. There can be no two sides to that question.

Therefore, while in summing up so far as it is competent to sum up from the news before us—we must admit that the situation is critical—we still hold, admit that we fear the worst—we still hope for the best. We hope that Spain's counter proposals may, when fully developed and carefully weighed, be found to be such as that even if we cannot accept them, they will open the way to the two governments, getting together in the immediate future. In the mean time, and until it shall be demonstrated that this is impossible, let our firmness be tempered with conservatism, so that should war be the finality, we may be able to vindicate our part in bringing it about, in the eyes of the world. The President is reported as saying that he prays for peace—peace with honor, of course—and all true citizens should say amen to that prayer.

A NEEDED AMENDMENT.

In another article this morning we have noted that the power to declare war is vested by the Constitution in Congress. The clause of the Constitution covering this point is all right, as far as it goes, but recent scenes and incidents in Congress constrain us to believe that it would have been amplified if the fathers of the organic law could have seen this far into the future.

These worthies had a high appreciation of the wisdom of checks and balances, as their work shows. In many respects the Constitution is a model illustration of the check and balance system, and anticipated many conditions. But the fathers aforesaid could not have anticipated the untimely congressional jingoistic outbursts of Tuesday and Wednesday. Had they, there is hardly a question that in case of a declaration of war by Congress, all members voting for such declaration should be compelled to go to the front and experience the difference between "sneaking out" and being one of the "sleeked."

However, the matter is not beyond remedy. It is entirely competent to amend the clause under discussion by tacking on to it the check against rushing blindly into war, omitted by the fathers of the Constitution. It is en-

tirely competent to amend the Constitution so as to minimize the danger of Congress's presenting again the spectacle of being in sympathy with the humorist who was willing to sacrifice all of his mother-in-law's relatives on the altar of his country.

Experience teaches us that such an amendment is sadly needed, and it is to be hoped that when the present war cloud shall have rolled by some statesman will make it his mission to propose it and work for its adoption until the consummation shall have been achieved.

CONDITIONAL PARDONS.

The bill passed by the last Legislature allowing the Governor to grant conditional pardons to convicts who have served half their terms in the penitentiary and conducted themselves in strict accordance with the rules of the prison, is a measure well calculated to promote the discipline of the institution and reformation upon the part of its unfortunate inmates.

While the bill has some few imperfections, largely due to the fact that it was introduced very late in the session, the groundwork of the legislation is good, and it can be made to accomplish splendid results. It inaugurates a ticket-of-leave system which will serve the double purpose of partially relieving the congested condition of the prison, and of holding out to the convicts a strong incentive for industry and good behavior. To insure the body politic against the burden of having to bear with hordes of idle jail-birds who, if without occupation, would in many cases return to their evil ways, the operations of the law will be circumscribed by stringent conditions which must be literally observed. For instance, the convict who has served half his term, and wishes his freedom, must first make application to the Board of Directors, who will carefully investigate his prison record, and if the case presented is a meritorious one, the matter will be referred to the Executive.

The law in no way divests the Governor of the prerogatives which have hitherto attached to his office, but rather increases them, for with the assistance of the board he will be allowed more latitude for his clemency. If he deems the prisoner undeserving, he may refuse to adopt the recommendations of the board, while, on the other hand, he may qualify the pardon with reservations of the most exacting nature. In short, he may, as a condition precedent to clemency, order the prisoner to pay a fine, leave the State, and never return, or to do any other lawful act which seems proper.

We take it for granted, moreover, that no convict who intends to remain in this State will be able to avail himself of the new law unless he can give the most positive guarantee that he will be able to procure work upon his discharge. Both the Executive and the board are well aware that "idleness is the devil's workshop," so far as the criminal classes are concerned.

The right of the Governor of this State to grant a conditional pardon has been questioned at times, but the Legislature seems to have had no doubts upon the subject. A few cases, bearing more or less upon the question of Executive clemency, have been adjudicated in Virginia, but they are somewhat at variance with one another. The Constitution does not in express words give the Executive the right to grant conditional or commutative pardons, and a dictum of Judge Fry, in Ball's case, 8 Leigh, 726, says: "But with my pardons are, constitutionally or from practice, unconditional or absolute." Many years later, in the case of Lee, Sergeant, vs. Murphy, 22 Gratt., page 79, the court takes a directly opposite view. Here the doctrine is laid down that a Governor of Virginia may grant a conditional pardon to a prisoner convicted of felony, provided the condition is not impossible, immoral, or illegal. The prisoner may even consent to accept another punishment in lieu of the one originally imposed if it is recognized by our statutes or by the common law, as enforced in Virginia.

In this case Governor Walker commuted the sentence of a prisoner from three years in the penitentiary to twelve months in jail. The convict accepted and signed the conditions on the back of the commutation and warrant, but later sought his freedom by means of habeas corpus, on the ground that the conditions were void and the pardon absolute. The court discharged the prisoner from custody, but pending an appeal the judgment was suspended. Under the decision of the appellate court the prisoner, of course, had to elect whether he would serve the three years in the penitentiary or the twelve months in jail. It is safe to presume that he took the lesser punishment. The fact of his having signed the warrant made it a conditional pardon, which differs from a commutation in that the conditions may be refused or accepted by the convict, whereas in a commutation, which substitutes a lesser for a greater punishment, the terms may be imposed upon the convict against his consent.

The elaborate opinion in this case, which was prepared by Judge Staples, is generally regarded as conclusive of the question of conditional pardons, and the late Professor John B. Minor, in his synopsis of criminal law, asserts that this ruling fully establishes the doctrine. In connection with the subject of Executive clemency, it may be of interest to note the opinion of the Supreme Court in the case of Edwards vs. the Commonwealth, 78th Virginia, page 23. There it was decided that the Governor's pardon relieves the offender not only of the punishment annexed to the offence, but of all penalties and consequences, including the additional punishment of five years added to the term of a person twice convicted.

The political disabilities incident to conviction, however, are not obliterated by a pardon, and the restoration of a man to citizenship requires a separate act of the Executive.

While the ways of courts and the opinions of lawyers are uncertain, it would seem that in the light of the ruling in the case of Lee, Sergeant, vs. Murphy, the bill recently passed will hold good, and that the measure will prove most useful and humane.

So New York now, in the jingo phrase, not only has the men, but she has the money, too—a million dollars of it—with which to go to war, if she should wish to do so. Well, we still hope she will not have occasion to use either her men or her money for the prosecution of hostilities.

The color of our warships is gray. It may be observed, not blue. That's because they are expected to fight.

It is not altogether impossible, we take it, that Spain is to-day trying to April-fool your Uncle Samuel.

POWER TO DECLARE WAR.

The power to declare war is vested by the Constitution in Congress, but a declaration of war would be subject to the provision of the organic law applying to "every order, resolution, and vote to which the concurrence of the Senate and House of Representatives may be necessary." That is to say, the President would have the right of veto, and in order then to give the declaration force and effect, the resolutions or what not embodying the declaration would have to be passed over his veto, by a two-thirds vote of each branch of Congress.

This being the case, it will be readily understood that any lack of concert between the President and Congress touching the question of declaring war is calculated to encourage Spain to be more stiff-necked in resisting our demands, than she would be otherwise. If Congress should declare war at this juncture and the President should veto the declaration, and it should be passed over his veto, or even should he not veto it, Spain, considering his attitude at present, would be justified in regarding the American people as divided on the issue. And just to the degree that this impression obtained among the Spanish people, their hope of success in a clash of arms with us would be stimulated. Viewed, either in its bearing upon peace negotiations or the possibilities of war, the development of any pronounced friction between the executive and the legislative branches of the government would be very unfortunate for us. The moral effect as reflecting upon the nation would be bad, not only in Spain, but in other European countries.

The consolidation of the Norfolk Virginian and the Norfolk Pilot went into effect yesterday, when the first number of the new paper, Virginian and Pilot, was issued. The officers are: President, A. H. Grandy; Vice-President, M. Glennan; Treasurer, W. S. Wilkinson; Secretary, J. E. Allen; Board of Directors—A. H. Grandy, L. D. Starke, Jr., Robert W. Shultice, Thomas W. Shelton, M. Glennan, James E. Allen, and D. F. Donovan; Editor, William E. Elam; Superintendent, R. E. Turner.

The new paper starts out with most flattering prospects. In its salutatory it says the "paper will stand by the Jeffersonian Democracy as set forth in the Chicago platform of 1896, and labor for the restoration of constitutional bimetallic free coinage, upon which our liberty, as well as our material prosperity, so largely depends." In all of its departments the Virginian and Pilot gives evidence of life, energy, and ability.

It is said ex-Senator Ingalls is to join the Populists. If the statement is true, the most picturesque of politicians will at length have found an appropriate place in the most picturesque of parties.

Spanish Counter-Argument.

NEW YORK, April 1.—A special dispatch from Washington to the World, timed 2 A. M., gives the following outline of Spain's reply to the note presented by Minister Woodford:

"Spain neither accedes to nor declines President McKinley's propositions. She makes the counter-argument that Spain should herself be allowed to propose terms as to what should be done regarding her own territory; that the United States should not do so."

MRS. NOBLES NOT TO BE HANGED.

Her Sentence Likely to Be Commuted to Life Imprisonment.

ATLANTA, GA., March 31.—The Prison Commission to-day recommended to Governor Atkinson that the sentence of Mrs. Elizabeth Nobles, who was to have been hanged to-morrow at Macon, be commuted to imprisonment for life. The Governor has postponed the execution, and will no doubt endorse the finding of the commission.

The case of the negro, Gus Fambles, sentenced to hang with Mrs. Nobles, as an accomplice in the murder of Mr. Nobles, was not touched upon, but it is believed that he, too, will receive a commutation of sentence.

Mrs. Nobles is over 60 years of age, and is in failing health.

GERMANY MAY TAKE A HAND.

Diplomatic Representations to Spain Regarding Cannamaba Case.

BERLIN, March 31.—Germany has commenced diplomatic representations to Spain, relative to the Cannamaba case, and the German cruiser Golem, on her way to Bahia, has been ordered to get ready to proceed to Cuba, if satisfaction is not quickly forthcoming.

The German version of the Cannamaba case is that some Cuban insurgents, during the night of March 18th, attacked a German refinery at Cannamaba (also written Cannamaber), belonging to the firm of Fischer & Schmidt, of Trinidad, province of Santa Clara. The insurgents are said to have rifled the safes, burned the building, killed four persons, and wounded ten occupants of the refinery.

SERGT. TSCHERNING RETURNING.

He Is At Wilmington, On the Way to Fort Monroe.

WILMINGTON, N. C., March 31.—Sergeant Walter Tscherning, of Battery F, Fourth Artillery, United States Army, who mysteriously disappeared from Fort Monroe about a week ago, and afterwards turned up at Fort Caswell, was here to-day, returning to Fort Monroe. He was accompanied by Field-Musician J. E. Reese and Corporal William Cross, of Battery I.

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Every thought, word and action takes vitality from the blood; every nerve, muscle, bone, organ and tissue depends on the blood for its quality and condition. Therefore pure blood is absolutely necessary to right living and healthy bodies. Hood's Sarsaparilla is the great blood purifier and the best Spring Medicine. Therefore it is the great cure for scrofula, salt rheum, humors, sores, rheumatism, catarrh, etc.; the great rhuematism, strength builder, appetizer, stomach tonic and regulator.

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El Liberal concludes by calling upon the Ministry to identify itself with the unanimous feeling of the country; to place before everything the primary interest of the nation, and proceed with discretion and coolness, but, at the same time, with undaunted firmness, "for there is a limit which Spain cannot and will not overstep—that limit is marked by the respect it owes the world and its own sovereignty."

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WOODFORD FORWARDS NOTE.

At Minister Woodford's conference with Senor Sagasta, Gullon, and Moret, Senor Sagasta's note, translated into English, was submitted to General Woodford, who, after reading it, said: "I am authorized to negotiate an armistice, and, therefore, I will transmit the Cabinet's reply to Washington."